

Office of the
CLARK COUNTY LAND USE HEARING EXAMINER

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Form DS1333

NOTICE TO PARTIES OF RECORD

Project Name: SKYVIEW HEIGHTS EAST

**Case Numbers: PLD2009-00038; SEP2009-00063;
HAB2009-00051**

The attached decision of the Land Use Hearing Examiner is final unless appealed. An appeal of any aspect of the Hearing Examiner's decision, except the SEPA determination (i.e., procedural issues), may be appealed to the Superior Court or reconsidered by the Hearing Examiner only by a party of record pursuant to Ordinance 10-19, adopted 10/27/2009 by the Board of County Commissioners. A party of record includes the applicant and those individuals who signed the sign-in sheet or presented oral testimony at the public hearing, and/or submitted written testimony prior to or at the Public Hearing on this matter.

Mailed on: December 29, 2009

CASE NAME: Skyview East
CASE NUMBER: PLD2009-38
HEARING DATE : 12/10/09

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BEFORE THE LAND USE HEARINGS EXAMINER
FOR CLARK COUNTY, WASHINGTON

In the matter of a Type III application for a 10-lot single-family residential subdivision using the Tier 2 Infill provisions on 1.43 acres zoned R1-7.5 in unincorporated Clark County, Washington.

FINAL ORDER

**Skyview Heights East Subdivision
PLD2009-00038, SEP2009-00063
& HAB2009-00051**

I. Summary:

This Order is the decision of the Clark County Land Use Hearings Examiner approving with conditions this application for a 10-lot single-family residential subdivision using the Tier 2 Infill provisions and related approvals (PLD2009-00038, SEP2009-00063 & HAB2009-00051) – on 1.43 acres zoned R1-7.5.

II. Introduction to the Property and Application:

Owners..... Spencer & Gina Kinman Darell & Lorna Sager
PO Box 3127 11037 NE Glisan Street
Tualatin, OR 97062 Portland, OR 97220

Applicants Spencer & Gina Kinman
PO Box 3127
Tualatin, OR 97062

Contact PLS Engineering
Attn: Travis Johnson
1014 Franklin Street, Atrium Suite
Vancouver, WA 98660

Property Legal Description: Tax lot 1/12 (parcel number 117895-120) located in the southeast quarter of Section 23, Township 3 North, Range 1 East of the Willamette Meridian. Street Address: 2405 NE 144th Street.

Applicable Laws..... Clark County Code (CCC) 15.12 (Fire Code); Title 24 (Public Health); 40.220.010 (Single-Family Residential Districts); 40.260.110 (Residential Infill); 40.350 (Transportation); 40.370.010 (Sewer); 40.370.020 (Water Supply); 40.380 (Stormwater and Erosion Control); 40.440. (Habitat Conservation); 40.500.010 (Procedures); 40.510.030 (Type III Process); 40.540.040 (Subdivisions); 40.570 (SEPA); 40.610 & 40.620 (Impact Fees); the Clark County Comprehensive Plan and RCW 58.17 (State Platting Law).

The 1.43-acre site is zoned R1-7.5, which allows single-family residential subdivisions outright, subject to preliminary plat review and approval. Additionally, the

applicant seeks to use the Tier 2 Infill provisions of CCC chapter 40.260 that was in effect when this development contingently vested, but is no longer. The development site consists of a single parcel (parcel number 117895-120) generally located just south of the confluence of I-5 and I-205, north of Washington State University, Vancouver campus. There is one existing house and two accessory structures on the property, all of which will be removed with this development. The subdivision will take access off of NE 144th Street via an internal private street (NE 24th Court) that will be located on the adjacent subdivision that is under consideration concurrently with this development (Skyview Heights West – PLD 2009-00039). The site contains several Oregon white oak trees that qualify as priority habitat. Mature oak trees mapped on this site shall be preserved, as well as several areas of young oak trees that were planted as mitigation for previous unpermitted tree cutting on the site. The property is within Vancouver's Urban Growth Area, the territory of the Fairgrounds Neighborhood Association, Park Improvement District 10, Fire District 6, the Mt. Vista Transportation District, and the Vancouver School District. Clark Regional Waste Water District provides sewer service, and Clark Public Utilities provides water service to the area.

The proposal includes the original application and plans (Exs. 5 & 6), notes from the May 7, 2008 preapplication conference (Ex. 6, tab 4), a soil report and preliminary drainage report (Ex. 6, tabs 11 & 12), a circulation plan and traffic study (Ex. 6, tab 15), the initial arborist's report (Ex. 6, tab 23) and a revision (Ex. 14), a geo-hazard study and report (Ex. 6, tab 22), an archaeological predetermination (Ex. 6, tab 17), a critical areas assessment and mitigation report (Ex. 6, tab 15), sewer and water service provider letters (Ex. 6, tabs 18 & 19, respectively), and a SEPA checklist (Ex. 6, tab 16).

III. Summary of the Local Proceeding and the Record:

A preapplication conference for this subdivision was requested on April 10, 2008 and held May 7, 2008 (Ex. 6, tab 4). An application was submitted on September 11, 2009 (Exs. 5 & 6) and deemed fully complete on September 24, 2009 (Ex. 8). From this sequence, this development is deemed vested as of April 10, 2008. Notice of the Type III application and a December 10, 2009 public hearing on the application was mailed to property owners within 300 feet and to the Fairgrounds Neighborhood Association on October 8, 2009 (Exs. 9 & 10). Notices of the application and hearing were also posted on and near the site on November 25, 2009 (Ex. 13). The County received no appeals and two comments on the SEPA Determination by the submission deadline of October 22, 2009 (Exs. 11 & 12). Staff issued a comprehensive report on the project on November 25, 2009 (Ex. 16) recommending approval with conditions.

At the commencement of the December 10th hearing, the Hearings Examiner explained the procedure and disclaimed any ex parte contacts, bias, or conflicts of interest. No one objected to the proceeding, notice or procedure. No one raised any procedural objections or challenged the Examiner's ability to decide the matter impartially, or otherwise challenged the Examiner's jurisdiction.

At the hearing, Alan Boguslawski, county planning staff on the project, David Botamini, engineering staff, and George Fornes, county habitat biologist, provided verbal summaries of the project, the staff report and the various agency and departmental comments already in the record. Andrew Gunther, of PLS Engineering, represented the applicant, responded to questions and expressed the applicant's agreement with staff's proposed findings and conditions of approval. No one else requested an opportunity to

testify, and no one requested a continuance or that the record be left open. The Examiner closed the record at the conclusion of the December 10th hearing and took the matter under consideration.

IV. Findings:

Only issues and approval criteria raised in the course of the application, during the hearing or before the close of the record are discussed in this section. All approval criteria not raised by staff, the applicant or a party to the proceeding have been waived as contested issues, and no argument with regard to these issues can be raised in any subsequent appeal. The Examiner finds those criteria to be met, even though they are not specifically addressed in these findings. The Examiner adopts the following findings related to issues and criteria that were addressed in the staff report:

LAND USE:

Finding 1 - Infill Standards: This subdivision is proposed under the Tier 2 Infill standards in CCC 40.260.110. The site meets the infill eligibility criteria in CCC 40.260.110(B) because it does not exceed 2.5 acres and has existing urban development on more than 50% of its non-street perimeter. The average lot area of the proposal is 6,200 sf, which meets the Tier 2 standards for the R1-7.5 zone of a minimum 6,000 sf. The density of the proposal is 6.99 units per acre, which is within the maximum density of 7.3 units per acre for Tier 2 developments in the R1-7.5 zone. The infill ordinance provides for reduced front setback standards, which are a minimum of 18 feet for the garage door and 10 feet for other parts of the dwelling. The minimum rear setback for Tier 2 lots whose rear lot line abuts other parcels containing existing dwellings is 10 feet, which is the applicable rear setback for all 10 proposed lots. The minimum side setback is 5 feet and the minimum street side setback (applicable to Lot 1) is 10 feet, same as the normal R1-7.5 standards. The maximum permitted lot coverage by buildings is 60%, and the maximum building height is 35 feet. Compliance with setbacks, lot coverage, and building height standards will be reviewed in conjunction with the future building permit for each lot. Infill development standards shall be recorded as a deed restriction with the final plat as a condition of approval. See Condition D-2a.

Finding 2 - Neighborhood Meeting: Tier 2 infill developments require a neighborhood meeting organized by the applicant prior to submittal of the subdivision application. The meeting shall be held in accordance with the criteria in CCC 40.260.110(I)(1) and the administrative guidelines approved by the Community Development Director. The applicant has submitted the documentation required for verification of the neighborhood meeting (Ex. 6, tab 23).

Finding 3 - Existing Structures: The existing structures proposed for removal require a demolition permit, to which asbestos control inspection requirements and regulations apply. The applicant should contact the Southwest Clean Air Agency regarding asbestos inspection and abatement requirements. See Condition B-1a.

ARCHAEOLOGY:

Finding 4 - Archaeological Predetermination: Much of the property is designated on the county archaeological predictive model maps as having a Moderate (40-60%) probability for containing artifacts, and archaeological site buffers extend onto the property. The proposal has high ground disturbance impacts, and CCC Table

40.570.080-1 requires an archaeological predetermination. The applicant submitted an archaeological pre-determination to the State Department of Archaeology and Historic Preservation (DAHP) prior to submittal of the application (Ex. 6, tab 17). DAHP concurred with the recommendation of the pre-determination that no additional studies are necessary (Ex. 18); however, a note on the final construction plans will require that if resources are discovered during ground disturbance, work shall stop and DAHP and the county will be contacted. See Condition A-1a.

HABITAT:

Finding 5 - Habitat Conservation Ordinance: The site contains an area that meets the Washington Department of Fish and Wildlife (WDF&W) definition of "Oregon White Oak Woodlands". CCC 40.440.010(C)(4) provides that official habitat area definitions shall prevail over countywide mapping in determining applicability of this chapter, and the stand on this property conforms to this WDF&W definition. Three protected Oregon White Oak trees exist in the project site, two of which are mapped in the preliminary plans and described in the Arborist Report (Ex. 14, dated June 28, 2009): one at the eastern end of Lot 7 of Skyview Heights West, a second at the western end of Lot 10 of Skyview Heights East and the third oak is not shown on the preliminary plat but is documented in a sketch map drawn by the certified arborist dated October 21, 2009 (Ex 14). The third oak is located in the northwest corner of parcel number 117895-122, and a portion of its canopy extends into the project site. Staff visited the site and confirmed the locations of all three trees on October 19 and 28, 2009. The Habitat Conservation Ordinance (HCO) protects fish and wildlife through regulations, education, and voluntary stewardship opportunities, and it requires preservation of the same biological functions and values as are currently present on the site. CCC 40.440.020(A)(2)(a). Functions and values present on this site include microclimate maintenance, dead and down woody debris, organic matter and nutrient contributions to the food web, thermal and hiding cover for wildlife, wildlife breeding and dispersal areas, and nesting habitat for resident and migrant birds. As a result, protection of these three oak trees is required by the HCO.

Finding 6 - Mitigation Plan: The applicant proposes to widen and pave the site's existing gravel driveway to create NE 24th Court – the private street serving both subdivisions. The proposed construction will impact portions of the root zones of all three Oregon White Oak trees on this site. The applicant submitted a Revised Arborist Report dated August 11, 2009 (Ex. 6, tab 22) that proposed to mitigate for the impacts by protecting portions of the trees and by planting native shrubs within the protected root zones of the trees. The proposed mitigation does not consider impacts to the third oak tree, which was mapped later. Staff determined that the proposed mitigation was adequate to maintain habitat functions on the site if certain conditions were imposed. Staff also recommended specific language for the Habitat Conservation Covenant that prohibits adjacent lot owners from clearing native vegetation, dumping yard wastes, grading within the dripline or limbing of protected trees, and conducting any other activities in the habitat area, or on lots with protected trees, with a potential to degrade habitat functionality. This covenant language shall be included as a plat note to notify contractors and lot owners of these development limitations and stewardship obligations. See Conditions A-1b, B-1, D-3 & H-1.

TRANSPORTATION:

Finding 7 - Pedestrian/bicycle Circulation: CCC 40.350.010 requires pedestrian circulation facilities that comply with the Americans with Disabilities Act, and this proposal meets this requirement.

Finding 8 - Cross-Circulation: The applicant submitted a cross circulation plan (Ex. 6, tab 15) indicating that circulation is not feasible to the east due to the white oak trees on the parcel. The applicant certified sufficient sight distance exists at the location of the proposed intersection with NE 144th Street. If circulation is not feasible at that location, the applicant will either have to provide mitigation or access at another location along NE 144th Street. The applicant has opted for the latter, and on that basis, the project meets the circulation plan requirements in CCC 40.350.030(B)(2).

Finding 9 – Roads: NE 144th Street is an Urban Neighborhood Circulator. The minimum half-width requirements include 27 feet of right-of-way, 18 feet of paved width, curb, gutter, and a 5-foot sidewalk. The applicant proposes all of these improvements for the site's NE 144th Street frontage. Per table 40.350.030-4, the proposed intersection curb return radii at the approach to NE 144th Street shall be at least 25 feet. See Condition A-2a. CCC 40.350.030(B)(6)(b) requires all roads providing access to parcels being developed, regardless of whether they are public or private, to have a minimum paved width of 18 feet with 1-foot wide shoulders. There is some question as to whether NE 144th Street meets this standard in the vicinity of the site. To the extent that NE 144th Street is deficient, the applicant shall construct all improvement needed to achieve this standard. See Condition A-2d.

Access for the lots in this subdivision shall be via NE 24th Court, a private street to be constructed as part of Skyview Heights West Subdivision (PLD 2009-00039). NE 24th Court shall be constructed in full as proposed in the preliminary plan and any necessary easements granted prior to final plat approval for Skyview Heights East. See Condition D-5. NE 24th Court shall comply with standard drawing #17A, an Urban Private Road, with minimum improvements to include 20-foot paved width, a 5-foot sidewalk, curbs and gutters. The road will be privately maintained. See Conditions D-2d & e. Private roads shall be designed to meet minimum public road standards. The proposed preliminary plat does not show the centerline radius for NE 24th Court, but it shall meet a centerline radius of at least 70 feet. Per CCC 40.350.030(B)(4)(b)(1)(b), corner lot driveways shall have a minimum separation of 50 feet from intersecting property lines or, where this is impractical, the driveway may be located 5 feet from the property line away from the intersection, or as a joint use driveway at this property line. See Condition A-2b.

Finding 10 - Sight Distance: The applicant submitted a sight distance analysis (Ex. 6, tab 15, dated December 16, 2009) that indicates the sight distance standard is met at the location of the proposed intersection of NE 24th Avenue and NE 144th Street. CCC 40.350.030(B)(8) establishes the minimum sight distances required for all intersections and driveways, which this intersection shall meet. Additional building setbacks may be required for corner lots to maintain adequate sight distance. The final engineering plans shall show sight distance triangles for all corner lots. Landscaping, trees, utility poles, and miscellaneous structures will not be allowed to impede required sight distance requirements at all proposed driveway approaches and intersections. See Condition A-2c.

STORMWATER:

Finding 11 – Applicability: This is an infill development subject to the Stormwater and Erosion Control Ordinance (CCC chapter 40.380). Projects that meet the eligibility requirements of CCC 40.260.110(B)(1) and create less than 5,000 sf of new impervious surface area are exempt from CCC 40.380.040(B) and CCC 40.380.040(C). Houses that use roof downspout systems to infiltrate roof runoff may be deducted from area calculations. The applicant has correctly stated that the amount of proposed impervious area that will be created is more than 5,000 sf; therefore the requirements of CCC 40.380.040(B) and CCC 40.380.040(C) apply and shall be met.

Finding 12 - Stormwater Proposal: The applicant submitted a preliminary stormwater report (Ex. 6, tab 12, dated June 30, 2009) indicating that StormFilters (Contech Stormwater Solutions) and detention will be used. These facilities shall be privately owned and maintained. See Condition A-4d. The site currently receives runoff from properties to the east and north. The proposed facilities were designed to accommodate existing flows from those offsite areas. A downstream analysis is included in the preliminary stormwater plan. The preliminary stormwater report identifies a 100-year/24-hour storm precipitation depth as being 4.0 inches. The 10-year/24-hour storm event precipitation depth is 3.0 inches. In addition, the 2-year/24-hour storm event precipitation depth is identified as being 2.0 inches.

Finding 13 - Site Conditions and Stormwater Issues: CCC 40.380.040(C)(1)(g) prohibits the project from materially increasing or concentrating stormwater runoff onto any adjacent properties or block existing drainage from adjacent lots. See Condition A-4a. CCC 40.380.050(B)(8) requires that properties and waterways downstream from development sites shall be protected from erosion due to increases in the volume, velocity, and peak flow rate of stormwater runoff from the project site. See Condition A-4b. The curve numbers of the pervious and impervious areas shall not be averaged when sizing the water quality facility. See Condition A-4c.

GEOLOGIC HAZARD AREAS:

Finding 14 – Applicability: All development activities in or adjacent to (within 100 feet of) geologic hazard areas shall comply with CCC chapter 40.430. County GIS mapping shows that the proposed development is within 100 feet of slope instability and adjacent to a severe erosion hazard area. Therefore the requirements CCC chapter 40.430 apply to this development and shall be met.

Finding 15 - Geologic Hazard Issues: The applicant submitted a preliminary geotechnical report (Ex. 6, tab 22, dated January 12, 2009). The proposed project shall implement the recommendations identified in the preliminary geotechnical report unless further studies present new or different facts. See Condition A-5a. A building permit is required for retaining walls taller than 4 feet or when the wall is surcharged. All retaining walls shall be shown in sufficient detail on the engineering plans for staff to assess their impact on adjacent roads, structures, and public and private utilities. See Condition A-5b. During construction, the geotechnical engineer shall certify that work performed is consistent with his recommendations and certify that there are no safety concerns. See Condition C-1.

FIRE PROTECTION:

Finding 16 - Fire Marshal Review: This application was reviewed by the Fire Marshal's Office, which provided comments and suggested conditions of approval. The developer shall meet those conditions. Where there is difficulty in meeting these conditions or if additional information is required, the developer should contact the Fire Marshal's office immediately.

Finding 17 - Building Construction: Building construction occurring subsequent to this application shall comply with the county's building and fire codes. Additional specific requirements may be imposed at the time of building construction as a result of the permit review and approval process.

Finding 18 - Fire Flow: Fire flow in the amount of 1,000 gallons per minute supplied at 20 psi for 60 minutes duration is required for this application. Information from the water purveyor indicates that the required fire flow is available at the site and is estimated at 1,500 gpm.

Finding 19 - Fire Hydrants: Fire hydrants are required for this application, and the indicated new fire hydrant is adequate. Fire hydrants shall be provided with appropriate 'storz' adapters for the pumper connection. A 3-foot clear space shall be maintained around all fire hydrants. The local fire district chief approves the exact locations of fire hydrants, and the developer shall contact Fire District 6 to arrange for location approval. See Condition A-9a.

Finding 20 - Fire Access and Maneuvering: The roadways and maneuvering areas as indicated in the application appear to comply with the Clark County Road Standards. The developer shall provide an unobstructed vertical clearance of not less than 13.5 feet, with an all weather driving surface and capable of supporting the imposed loads of fire apparatus. Fire apparatus turnarounds are required and shall comply with the Road Standards. Parallel parking is prohibited on streets that are narrower than 24 feet. Streets narrower than 24 feet shall be posted "NO PARKING." See Condition C-2.

WATER & SEWER SERVICE:

Finding 21 – Utilities: CCC 40.370.010(D) requires all new lots in this development to be connected to public water and sewer. The site is within the Clark Public Utilities service area for public water and Clark Regional Wastewater District for public sewer service. The applicant submitted current utility reviews from the purveyors confirming that services are available to the site, and describing the connection requirements. Prior to final plat approval, the applicant shall provide documentation from the purveyors that water and sewer connections to the new lots have been installed and approved. See Condition D-1.

Finding 22 - Health Department: The applicant submitted a development review evaluation from the Clark County Health Department dated November 17, 2008 (Ex. 6, tab 20) that covers both Skyview Heights East and West. The document states that a separate evaluation will be required if the parcels develop as two separate land divisions; therefore, the applicant may need to apply for an additional development review evaluation before the Health Department will sign off on the final plat. The development review evaluation indicates that a well probably exists on the site and must be properly decommissioned and that any septic systems discovered that have not been properly abandoned must be. See Conditions B-1e & D-4.

IMPACT FEES:

Finding 23 - Impact Fees: The site is located in Park Improvement District 10, the Vancouver School District and the Mt. Vista Transportation District. All new residential units constructed in this development (9 single-family units, which accounts for the single lawfully existing home that will be removed from the site) will impose new service demands on the local schools, parks and transportation system. Therefore, all new dwellings in this development are subject to the following impact fees authorized by CCC chapter 40.610 to defray the cost of serving this new demand, payable at the time of building permit issuance:

- (1) Park impact fee (PIF) for the Park Improvement District No. 10, which has a total PIF of \$1,534 per lot (\$1,094 for acquisition and \$440 for development)
- (2) Traffic impact fee (TIF) for the Mt. Vista Transportation District, which has a TIF of \$5,344.37 per lot; and
- (3) School impact fee (SIF) for the Vancouver School District, which has a SIF of \$1,112 per lot.

All impact fees due shall be paid prior to the issuance of a building permit for each lot. If a building permit application is made more than 3 years following the date of this preliminary plat approval, the impact fee will be recalculated according to the then-current ordinance rate. See Conditions D-2g & E-1.

SEPA DETERMINATION

Based on the application materials and agency comments, staff determined that there were no probable significant adverse environmental impacts associated with this proposal that could not be avoided or mitigated through the conditions of approval listed below. Accordingly, the County, as the lead agency, determined that an environmental impact statement was not needed. The County issued and published its Determination of Nonsignificance for this project on October 8, 2009 (Ex. 9). Two timely comments and no appeals were received by the comment and appeal deadline of October 22, 2009 (Exs. 11 & 12). Those comments are adequately addressed in findings and/or conditions of approval; therefore, the SEPA determination is final.

V. Decision and Conditions:

Based on the foregoing findings and except as conditioned below, this application is approved in general conformance with the developer's revised proposal, the preliminary plat and related plans (Exs. 5, 6 & 14). This approval is granted subject to the requirements that the applicant, owner or subsequent developer (the "developer") shall comply with all applicable code provisions, laws and standards and the following conditions. These conditions shall be interpreted and implemented consistently with the foregoing findings.

A	Final Construction Plan Review for Land Division Review & Approval Authority: Development Engineering
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Prior to construction, a Final Construction Plan shall be submitted for review and approval, consistent with the approved preliminary plan and the following conditions of approval:

- A-1 Final Construction Plan** – The developer shall submit and obtain County approval of a final construction plan in conformance with CCC chapter 40.350 and the following additional requirements:
- a. Archaeology - A note shall be placed on the face of the final construction plan as follows:
- “If any cultural resources and/or human remains are discovered in the course of undertaking the development activity, all work in the vicinity shall cease and the Department of Archaeology and Historic Preservation in Olympia and Clark County Community Development shall be notified. Failure to comply with these State requirements may constitute a Class C Felony, subject to imprisonment and/or fines.” See Finding 4.
- b. Habitat Plan: The developer shall prepare and submit for county approval a Habitat Plan prepared in accordance with CCC chapter 40.440 and the following additional requirements:
- 1) The developer shall implement the mitigation measures proposed in the Arborist Report, Skyview Heights East West Subdivision, Revised August 11, 2009, except the plan shall be revised to include mitigation for impacts to the third oak tree.
- 2) Locations of the protected trees (driplines) and planting areas shall be shown on the face of the plans.
- 3) The developer shall record a Habitat Conservation Covenant protecting the planted and existing oak trees. The Habitat Conservation Covenant shall specifically prohibit the clearing of native vegetation (both dead or alive), the removal of dead or downed woody debris, the dumping of yard wastes, grading or placing of fill within the dripline or limbing of protected trees, and any other physical alteration of the land that degrades habitat functionality within the driplines of protected trees on individual lots. See Finding 6.
- A-2 Final Transportation Plan/On-Site** - The developer shall submit and obtain County approval of a final transportation design in conformance with CCC chapter 40.350 and the following additional requirements:
- a. Per table 40.350.030-4, the proposed intersection curb return radii at the approach to NE 144th Street shall be at least 25 feet. See Finding 9.
- b. Per CCC 40.350.030(B)(4)(b)(1)(b), corner lot driveways shall have a minimum separation of 50 feet from the intersecting property lines or, where this is impractical, the driveway may be located 5 feet from the property line away from the intersection, or as a joint use driveway at this property line. See Finding 9.
- c. The intersection of NE 24th Court and NE 144th Street shall comply with the sight distance standards of CCC 40.350.030(B)(8). See Finding 10.

- d. The developer shall make any improvements necessary to bring NE 144th Street up to the minimum standard required by CCC 40.350.030(B)(6)(b), which includes a minimum 18 feet of pavement and 1-foot shoulders on both sides. This includes all off-site portions of NE 144th Street that provide access to this development. See Finding 9.

A-3 Transportation: The developer shall prepare and submit for County review and approval a transportation plan that complies with CCC chapter 40.350 and the following additional requirements:

- a. Signing and Striping Plan: The developer shall submit a signing and striping plan and a reimbursable work order, authorizing County Road Operations to perform any signing and pavement striping required within the County right-of-way. This plan and work order shall be approved by the Department of Public Works prior to final plat or final site plan approval.
- b. Traffic Control Plan: Prior to issuance of any building or grading permits for the development site, the developer shall obtain written approval from Clark County Department of Public Works of the developer's Traffic Control Plan (TCP). The TCP shall govern all work within or impacting the public transportation system.

A-4 Final Stormwater Plan - The developer shall submit and obtain County approval of a final stormwater plan designed in conformance with CCC chapter 40.380 and the following additional requirements (see Finding 13):

- a. Per CCC 40.380.040(C)(1)(g), the project shall not materially increase or concentrate stormwater runoff onto an adjacent property or block existing drainage from adjacent lots.
- b. Per CCC 40.380.050 (B)(8), properties and waterways downstream from development sites shall be protected from erosion due to increases in the volume, velocity, and peak flow rate of stormwater runoff from the project site.
- c. The curve numbers of the pervious and impervious areas shall not be averaged when sizing the water quality facility.
- d. Per CCC 40.380.040(H)(3)(b)(2), an easement or a covenant acceptable to the responsible official shall be provided to the county for purposes of inspection of privately maintained facilities.

A-5 Geologic Hazard Areas – The developer shall submit and obtain County approval of a final geotechnical engineering plan designed in accordance with CCC chapter 40.430 and the following additional requirements (see Finding 15):

- a. The proposed project shall implement the recommendations identified in the preliminary geotechnical report unless further studies present new or different facts. A recommended setback from the top of the adjacent slope shall be clearly depicted on the engineering plans.
- b. A building permit is required for retaining walls greater than 4 feet tall or when the wall is intended to support unbalanced fill or a surcharge. All retaining walls

shall be shown in sufficient detail on the engineering plans for staff to assess their impact on adjacent roads, structures, and public and private utilities.

- A-6 Developer's Covenant:** The developer shall prepare and submit a recordable Developer Covenant to Clark County" that specifies the following Responsibility for Stormwater Facility Maintenance:

For stormwater facilities for which the county will not provide long-term maintenance, the developer shall make arrangements with the existing or future (as appropriate) occupants or owners of the subject property for assumption of maintenance to the county's Stormwater Facilities Maintenance Manual as adopted by Chapter 13.26A. The responsible official prior to county approval of the final stormwater plan shall approve such arrangements. The county may inspect privately maintained facilities for compliance with the requirements of this chapter. An access easement to the private facilities for the purpose of inspection shall be granted to the county. If the parties responsible for long-term maintenance fail to maintain their facilities to acceptable standards, the county shall issue a written notice specifying required actions to be taken in order to bring the facilities into compliance. If these actions are not performed in a timely manner, the county shall take enforcement action and recover from parties responsible for the maintenance in accordance with CCC 32.04.060.

- A-7 Erosion Control Plan** - The developer shall submit and obtain County approval of a final erosion control plan designed in accordance with CCC chapter 40.380.
- A-8 Excavation and Grading** - Excavation and grading shall be performed in compliance with CCC Chapter 14.07.
- A-9 Fire Marshal Requirements:** Fire hydrants shall be provided with appropriate 'storz' adapters for the pumper connection. A 3-foot clear space shall be maintained around the circumference of all fire hydrants. The local fire district chief shall review and approve the exact locations of fire hydrants. The developer shall contact Fire District 6 at 360-576-1195 to arrange for location approval. See Finding 19.

B	Prior to Construction of Development Review & Approval Authority: Development Inspection
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Prior to construction, the following conditions shall be met:

- B-1 Pre-Construction Conference** - Prior to construction or issuance of any grading or building permits, a pre-construction conference shall be held with the County, and in addition to any requirements then imposed by the County, the developer shall comply with the following:
- a. Demolition Permit** - The developer shall obtain a demolition permit from the Clark County Building Department prior to removal of any existing structures. See Finding 3.

- b. Habitat: The developer shall install tree protection fencing encompassing the remaining driplines of the three protected Oregon white oak trees. See Finding 6.
- c. Habitat: Locations of tree protection fencing shall be clearly identified on the Engineering Construction Plans set. See Finding 6.
- d. Habitat: The developer shall record a Habitat Conservation Covenant protecting the planted and existing oak trees. The Habitat Conservation Covenant shall specifically prohibit the clearing of native vegetation (both dead or alive), the removal of dead or downed woody debris, the dumping of yard wastes, grading or placing of fill within the dripline or limbing of protected trees, and any other physical alteration of the land that degrades habitat functionality within the driplines of protected trees on individual lots. See Finding 6.
- e. Health Department Requirements – Prior to construction, any existing wells or septic tanks on the site shall be decommissioned and properly abandoned in accordance with state law and the procedures of the Clark County Health Department. See Finding 22.

B-2 Erosion Control - Prior to construction, erosion/sediment controls shall be in place. Sediment control facilities shall be installed that will prevent any silt from entering infiltration systems. Sediment controls shall be in place during construction and until all disturbed areas are stabilized and any erosion potential no longer exists.

B-3 Erosion Control - Erosion control facilities shall not be removed without County approval.

C	Provisional Acceptance of Development Review & Approval Authority: Development Inspection
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Prior to provisional acceptance of development improvements, construction shall be completed consistent with the approved final construction/site plan and the following additional requirements:

C-1 Geologic Hazard Areas - During construction, the developer's geotechnical engineer shall certify that work performed is consistent with his/her recommendations and certify that there are no safety concerns associated with the proposed improvements. See Finding 15.

C-2 Fire Marshal Requirements - Parallel parking is prohibited on streets that are less than 24 feet wide. Streets that are less than 24 feet wide shall be posted "NO PARKING." See Finding 20.

D	Final Plat Review & Recording Review & Approval Authority: Development Engineering
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Prior to final plat approval and recording, the following conditions shall be met:

D-1 Utilities – Prior to final plat approval, water and sewer connections shall be installed by the developer and approved by the Clark Public Utilities and Clark Regional Wastewater District, respectively. See Finding 21.

D-2 Developer Covenant – A “Developer Covenant to Clark County” shall be submitted for recording to include the following legally binding commitments:

- a. Development on Infill Parcels: “All development on lots in this subdivision shall comply with the infill standards and requirements in CCC chapter 40.260, including the following dimensional standards. See Finding 1:
 - (1) 10 feet – minimum rear setback
 - (2) 10 feet – minimum front setback; except,
 - (3) 18 feet – minimum garage door setback
 - (4) 5 feet – minimum side setback
 - (5) 10 feet – minimum street side setback (applicable to Lot 1)
 - (6) 60% - maximum lot coverage”
- b. Critical Aquifer Recharge Areas: “The dumping of chemicals into the groundwater and the use of excessive fertilizers and pesticides shall be avoided. Homeowners are encouraged to contact the State Wellhead Protection program at (206) 586-9041 or the Washington State Department of Ecology at 800-RECYCLE for more information on groundwater /drinking supply protection.”
- c. Erosion Control - “Building Permits for lots on the plat shall comply with the approved erosion control plan on file with Clark County Building Department and put in place prior to construction.”
- d. Private Road Maintenance Covenant – A private road maintenance covenant shall be submitted to the responsible official for approval and recorded with the County Auditor. The covenant shall set out the terms and conditions of responsibility for maintenance, maintenance methods, standards, distribution of expenses, remedies for noncompliance with the terms of the agreement, right of use easements, and other considerations, as required under 40.350.030(C)(4)(g). See Finding 9.
- e. Private Roads: “Clark County has no responsibility to improve or maintain the private roads contained within or private roads providing access to the property described in this development. Any private access street shall remain a private street, unless it is upgraded to meet applicable current road standards at the expense of the developer or abutting lot owners to include hard surface paving and is accepted by the county for public ownership and maintenance.” See Finding 9.
- d. Responsibility for Stormwater Facility Maintenance: For stormwater facilities for which the county will not provide long-term maintenance, the developer shall make arrangements with the existing or future (as appropriate) occupants or owners of the subject property for assumption of maintenance to the county's Stormwater Facilities Maintenance Manual as adopted by Chapter 13.26A. The responsible official prior to county approval of the final stormwater plan shall approve such arrangements. Final plats shall specify the party(s) responsible for long-term maintenance of stormwater facilities within the Developer Covenants to Clark County. The county may inspect privately maintained facilities for compliance with the requirements of this chapter. If the parties responsible for

long-term maintenance fail to maintain their facilities to acceptable standards, the county shall issue a written notice specifying required actions to be taken in order to bring the facilities into compliance. If these actions are not performed in a timely manner, the county shall take enforcement action and recover from parties responsible for the maintenance in accordance with CCC 32.04.060.

- e. Impact Fees: "In accordance with CCC chapter 40.610, the following School (SIF), Park (PIF) and Traffic (TIF) Impact Fees shall be paid for each dwelling in this subdivision, with credit given to the developer for the existing lawful dwelling that was removed from the site:

- SIF of \$1,112 per dwelling for Vancouver School District;
- PIF of \$1,534 per dwelling for Park District 10 (\$1,094 for acquisition and \$440 for development), and
- TIF of \$5,344.37 per dwelling for Mt. Vista Impact Fee area.

The impact fees for lots on this plat shall be fixed for a period of three years, beginning from the date of preliminary plat approval, dated [REDACTED], and expiring on [REDACTED]. Impact fees for permits applied for more than three years following plat approval shall be recalculated using the then-current regulations and fees schedule." See Finding 23.

D-3 Plat Notes - The following notes shall be placed on the final plat:

- a. Habitat: "Clearing native vegetation, planting non-native vegetation, construction or development of any kind, the dumping of yard wastes, and any other physical alteration of the land determined injurious by the Planning Director, is expressly prohibited as per Conservation Covenant # [REDACTED] in the habitat area or within the dripline of protected trees on individual lots." See Finding 6.
- b. Habitat: "No removal or limbing of protected trees for purposes of construction of the development shall be allowed." See Finding 6.
- c. Habitat: "No grading within the dripline of protected trees for purposes of construction of the development shall be allowed." See Finding 6.
- d. Mobile Homes: "In accordance with CCC 40.260.130, mobile homes are prohibited on the lots in this plat."
- e. Archaeology: "If any cultural resources and/or human remains are discovered in the course of undertaking the development activity, the Office of Archaeology and Historic Preservation in Olympia and Clark County Community Development shall be notified. Failure to comply with these State requirements may constitute a Class C Felony, subject to imprisonment and/or fines."
- f. Utilities: "An easement is hereby reserved under and upon the exterior 6 feet at the front boundary lines of all lots for the installation, construction, renewing, operating and maintaining electric, telephone, TV, cable, water and sanitary sewer services. Also, a sidewalk easement, as necessary to comply with ADA slope requirements, shall be reserved upon the exterior 6 feet along the front boundary lines of all lots adjacent to public streets."

- g. Driveways: "All residential driveway approaches entering public roads are required to comply with CCC chapter 40.350."
- h. Privately Owned Stormwater Facilities: "The following party(s) is responsible for long-term maintenance of the privately owned stormwater facilities: _____."

D-4 Abandonment of On-Site Water Wells and Sewage Systems – The location of any abandoned septic tanks and decommissioned wells shall be shown on the face of the final plat. See Finding 22.

D-5 NE 24th Court - Access for the lots in this subdivision shall be via NE 24th Court, a private street to be constructed as part of Skyview Heights West Subdivision (PLD 2009-00039). NE 24th Court shall be constructed in full as proposed in the preliminary plan and any necessary easements granted prior to final plat approval for Skyview Heights East. See Finding 9.

E	Building Permits
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	Review & Approval Authority: Customer Service
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Prior to issuance of a building permit, the following conditions shall be met:

E-1 Impact Fees – Except for one lot to be identified on the face of the final plat as exempt, the developer shall pay impact fees as follows:

- a. \$1,112 per dwelling for School Impact Fees (Vancouver School Dist.)
- b. \$1,534 per dwelling for Park Impact Fees (Park District 10)
- c. \$5,344.37 per dwelling for Traffic Impact Fees (Mt Vista TIF Subarea)

If the building permit application is made more than three years following the date of preliminary plat approval, the impact fees shall be recalculated according to the then-current regulations and fees schedule. See Finding 23.

G	Development Review Timelines & Advisory Information
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G-1 Land Division - Within 5 years of preliminary plan approval, the developer shall submit a Fully Complete application for Final Plat review, after which the preliminary plat approval shall automatically expire.

G-2 DOE Stormwater Permit - A stormwater permit from the Department of Ecology (DOE) is required if both of the following conditions occur:

- a. The development disturbs one or more acres of land through clearing, grading, excavating, or stockpiling of fill material; AND
- b. There is a possibility that stormwater could run-off the development site during construction and into surface waters or conveyance systems leading to surface waters of the state.

The cumulative acreage of the entire project whether in a single or multiple phases will count toward the 1-acre threshold. This applies even if the developer

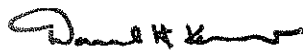
is responsible for only a small portion (less than one acre) of the larger project planned over time. The developer shall Contact the DOE for further information.

H	Post Development Requirements Review & Approval Authority: As specified below
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H-1 Habitat Requirements: (see Finding 6)

- a. The developer shall continue to maintain and monitor the oak plantings on the south and west edges of the Skyview Heights West site, per HAB2007-00047.
- b. The developer shall ensure an 80% survival rate for all installed vegetation for a period of 3 years.
- c. For the duration of the 3-year monitoring period, the developer shall apply for annual monitoring permit inspections and pay appropriate fees.

Date of Decision: December 29, 2009.

By: 
Daniel Kearns,
Land Use Hearings Examiner

NOTE: Only the Decision and Conditions of approval, if any, are binding on the applicant, owner or subsequent developer of the subject property as a result of this Order. Other parts of the final order are explanatory, illustrative or descriptive. There may be requirements of local, state or federal law or requirements which reflect the intent of the applicant, county staff, or the Hearings Examiner, but they are not binding on the applicant as a result of this final order unless included as a condition of approval.

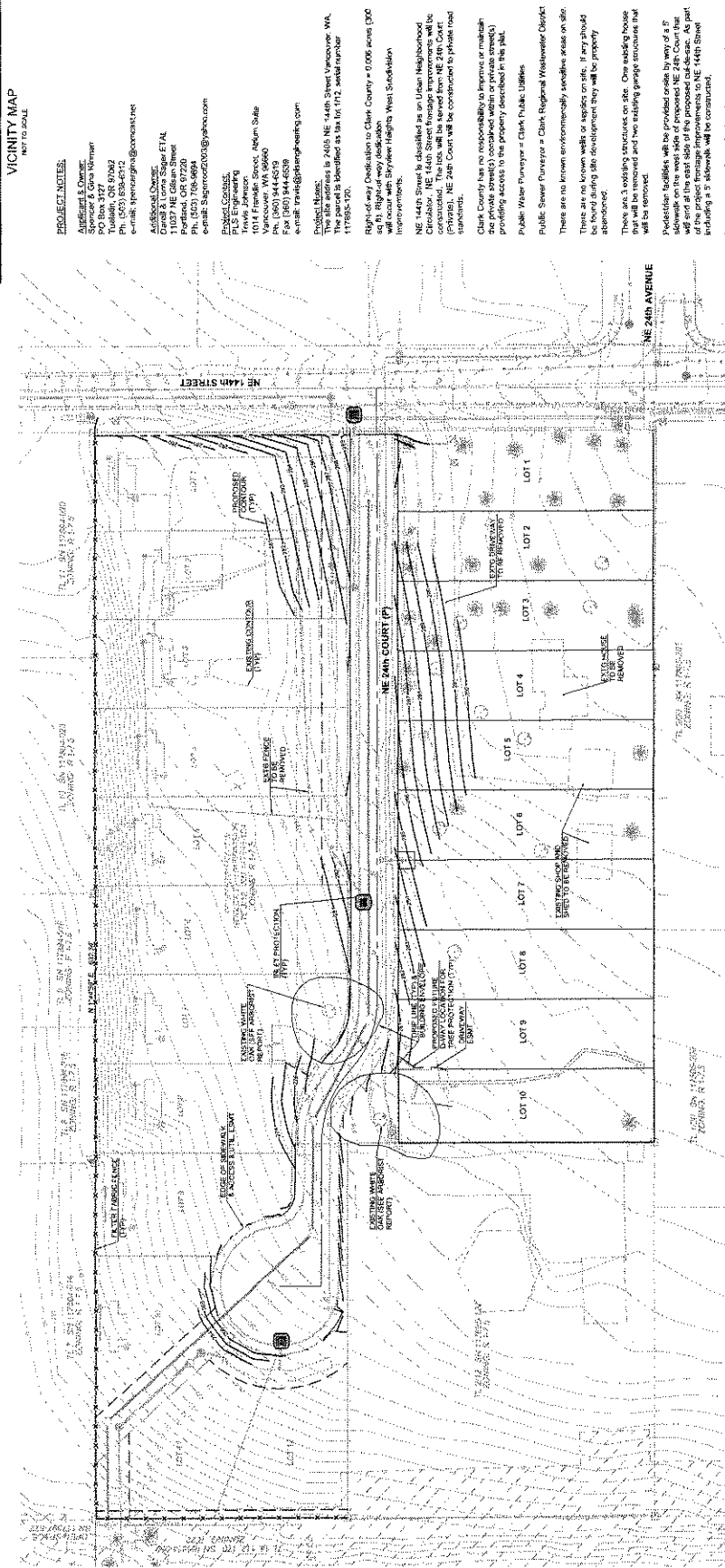
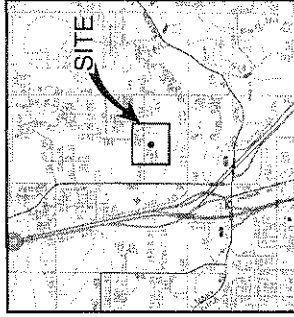
Notice of Appeal Rights

This is the County's final decision on this application. Anyone with standing may appeal any aspect of the Hearings Examiner's decision, except the SEPA determination, to Clark County Superior Court pursuant to the Washington Land Use Petition Act, RCW chapter 36.70C.

Skyview Heights East Tier II Infill Subdivision

Located in SE 1/4 of Section 23, T3N, R1E, W1E,
Clark County, Washington

Sheet Index	
1	Grading & Erosion Control Plan
2	Utility & Street Plan



PROJECT NOTES:

Applicant's Name:
PO Box 312
Tulalip, OR 97062
Ph: (509) 854-4512
e-mail: jennings@seasiteinc.com

Additional Owner:
11037 NE Gilman Street
Portland, OR 97220
Ph: (503) 705-4894
e-mail: jennings@seasiteinc.com

Project Contact:
Trevor Johnson
1014 Fremont Street, Nelson Suite
Portland, OR 97204
Ph: (503) 944-6330
Fax: (503) 944-6338
e-mail: trevor@seasiteinc.com

Project Notes:
The site address is 2405 NE 14th Street Vancouver, WA.
The site is identified as SA 16172, serial number
117805-120.

Right-of-way Dedication to Clark County = 0.006 acres (300
sq ft) will be provided by the applicant. The applicant
will submit with Skyview Heights West Subdivision
improvements.

NE 14th Street is classified as an Urban Neighborhood
Circulator. NE 14th Street frontage improvements will be
constructed. NE 24th Court will be named from NE 24th Court
and NE 24th Court will be constructed to provide road
standards.

Clark County has no responsibility to improve or maintain
the private streets (occupied within private streets)
providing access to the property described in this plat.

Public Water Purveyor = Clark Public Utilities

Public Sewer Purveyor = Clark Regional Wastewater District

There are no known environmentally sensitive areas on site.
There are no known wetlands or riparian areas. If any should
be found during site development they will be properly
abandoned.

There are no existing structures on site. One existing house
that will be removed and two existing garage structures that
will be removed.

Pedestrian facilities will be provided on site by way of a 5'
sidewalk on the west side of proposed NE 24th Court that
will end at the east side of the proposed easement. As part
of the proposed development, a 5' sidewalk will be constructed
including a 5' sidewalk will be constructed.

The nearest transit stop is at the intersection of NE 20th
Avenue and NE 13th Street, approximately 2,400 feet
south-west from the proposed development.

The nearest hydrant is located at the intersection of NE
14th Street and NE 24th Avenue. One hydrant is proposed
to meet the requirements of the Fire Marshal.

Contour data shown on this existing conditions plan are from
topographical survey data prepared by Lawrence Land
Services and from the GIS Department of Clark County.

Revisions	Date	By	For
1	10/1/2019	PLS	Submitted for Review



Project No.	2004
Scale:	1" = 30'
Reviewed By:	PLS
Checked By:	PLS
Drawn By:	PLS



HEARING EXAMINER EXHIBITS

APPLICATION: Skyview Heights East Tier II

CASE NUMBER: PLD2009-00038

Hearing Date: December 10, 2009

EXHIBIT NO.	DATE	SUBMITTED BY	DESCRIPTION
1		CC Development Services	Aerial Map
2		CC Development Services	Vicinity Map
3		CC Development Services	Zoning Map
4		CC Development Services	Comprehensive Plan Map
5	6/30/09	Applicant: PLS Engineering	Full Size Plans
6	6/30/09	Applicant: PLS Engineering	Application Packet; Cover Sheet, Table of Contents, Application Forms, Pre App Rpt, GIS Packet, Narrative, Legal Lot Determination, Approved Plats Abutting Site, Boundary Survey, Soil Rpt, Pre Drainage Rpt, Engineer Statement of Completeness, Circulation Plan, Traffic Study, SEPA, ARC, Utility Letters, CC&R's, Geo Hazard Study, Arborist Rpt, Infill Development Submittal Items
7	7/21/09	CC Development Services	Development Review NOT Fully Complete Determination
8	9/24/09	CC Development Services	Development Review Fully Complete Determination
9	10/8/09	CC Development Services	Notice of Type II Dev Review, Optional SEPA and Public Hearing
10	10/8/09	CC Development Services	Affidavit of Mailing Notice
11	10/13/09	Southwest Clean Air Agency	Agency comments
12	10/23/09	Department of Ecology	Agency comments
13	11/9/09	Applicant: PLS Engineering	Affidavit of posting sign
14	10/28/09	Applicant's Arborist	Revised sketch map of oak trees
15	11/17/09	CC Development Services	Notice of Public Hearing
16	11/25/09	CC Development Services	Staff Report Written by Alan Boguslawski
17	11/25/09	CC Development Services	Affidavit of Posting

EXHIBIT NO.	DATE	SUBMITTED BY	DESCRIPTION
18	6/22/09	Dept of Archaeology & Historic Preservation	Archaeological concurrence letter
19	12/10/09	Tamara Kinman	Letter committing to grant easement
20	12/10/09	CC Development Services Staff	Staff report addendum
21	12/10/09	CC Development Services	Power Point Pictures

Copies of these exhibits can be viewed at:

Department of Community Development / Planning Division
1300 Franklin Street
Vancouver, WA 98666-9810